

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

In this marijuana manufacturing case, the defendant moved to exclude certain evidence relating to plant material recovered by the authorities from the defendant's premises because of the destruction of the evidence prior to an opportunity for inspection and testing. In the alternative, the defendant moved for a dismissal of the count. The defendant now objects to the magistrate judge's report and recommendation that the motion be denied and requests the opportunity to present further evidence.

The defendant does not object to the facts summarized by the magistrate judge in her report, but points to additional evidence which he contends is determinative.

Even assuming that the additional evidence cited by the defendant was probative, I find that the magistrate judge's recommendation is unassailable. Thus, based on a de novo review of the objections, I will adopt the recommendation.

Accordingly, it is **ORDERED** that the Objections and Request for Hearing (Docket No. 32) are DENIED.

ENTER: March 11, 2007

/s/ JAMES P. JONES

Chief United States District Judge